

Ordinance No: 15-26
Zoning Text Amendment No: 04-06
Concerning: Site Plan Enforcement
Agreements - Elimination
Draft No. & Date: 1 – 3/15/04
Introduced: March 23, 2004
Public Hearing: May 4, 2004; 1:30 PM
Adopted: July 20, 2004
Effective: August 9, 2004

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: District Council at the request of the Planning Board

AN AMENDMENT to the Montgomery County Zoning Ordinance for the purpose of:

- eliminating the site plan agreement requirement.

By amending the following section of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-C-7	“PLANNED UNIT DEVELOPMENT ZONES”
Section 59-C-7.2	“Town sector zone”
DIVISION 59-D-3	“SITE PLAN”
Section 59-D-3.3	“Agreement”
DIVISION 59-E-3	“NUMBER OF SPACES REQUIRED”
Section 59-E-3.33	“Credits for specified residential uses”
DIVISION 59-F-10	“AUTHORITY”
Section 59-F-10.2	“Sign Review Board”

EXPLANATION: ***Boldface** indicates a heading or a defined term.*

Underlining indicates text that is added to existing laws by the original text amendment.

[Single boldface brackets] indicate text that is deleted from existing law by the original text amendment.

Double underlining indicates text that is added to the text amendment by amendment.

[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.

** * * indicates existing law unaffected by the text amendment.*

OPINION

Zoning Text Amendment No. 04-06 was introduced on March 30, 2004 at the request of the Montgomery County planning Board to eliminate the 59-D-3.3 site plan agreement requirement

The Montgomery County Planning Board in its report to the Council recommended that the ZTA 04-06 be approved.

The County Council held a public hearing on May 4, 2004, to receive testimony concerning the proposed text amendment. The text amendment was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.

The Planning, Housing, and Economic Development Committee held a worksession on July 12, 2004 to review the amendment. The Committee agreed with the Planning Board that the site plan enforcement requirement provision is no longer needed to ensure that all feature of the site plan are executed. It was the position of the Committee that the enforcement authority granted the Board by the State in 1992 to impose civil monetary fines and penalties, and issue stop work orders, is the more effective measure

The District Council reviewed Zoning Text Amendment No. 04-06 at a worksession held on July 20, 2004, and agreed with the recommendations of the Planning, Housing, and Economic Development Committee.

For these reasons and because to approve this amendment will assist in the coordinated, comprehensive, adjusted and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 04-06 will be approved as introduced.

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

Sec. 1. Division 59-C-7 is amended as follows:

DIVISION 59-C-7. PLANNED UNIT DEVELOPMENT ZONES.

* * *

59-C-7.2. Town sector zone.

* * *

59-C-7.28 Procedures for application and approval.

* * *

(d) In the implementation of subsections 59-C-7.28(b) and (c), above the Planning Board may waive the substantive requirements of chapter 50 and certain requirements of [a] Article 59-E (including the number of parking spaces described in Section 59-E-3.7) upon a finding that the waiver would allow greater flexibility of development consistent with the purposes of the zone and promote more attractive and more efficient overall planning and design; except that the following may not be waived:

* * *

(2) The following provisions of [d] Division 59-D-3 may not be waived:

* * *

[59-D-3.3, "Agreement."]

* * *

Sec. 2. Division 59-D-3 is amended as follows:

DIVISION 59-D-3. SITE PLAN.

* * *

59-D-3.3 [Agreement] Reserved.

[An agreement shall be signed by the applicant and the planning board's designee requiring the applicant to execute all the features of the site plan noted in section 59-D-3.23 in accordance with the development program required in section 59-D-

3.23(m). The agreement shall contain language stating that the agreement is also binding upon the applicants, successors and assigns.]

* * *

Sec. 3. Division 59-E-3 is amended as follows:

DIVISION 59-E-3. NUMBER OF SPACES REQUIRED.

* * *

59-E-3.33. Credits for specified residential uses.

* * *

(b) For housing and related facilities for senior adults and persons with disabilities, the Director/Planning Board may approve reductions in the standard parking requirements contained in Section 59-E-3.7. Any reductions granted must be in accordance with the following parking credit schedule, which must be applied sequentially, with succeeding percentages applying to the balance:

(1)	Located within 1,000 feet of Metrorail station entrance:	5%
(2)	Provision of private shuttle bus service for a minimum of 7 years, with a schedule assured by: <u>1) a special exception granted in accordance with Section 59-G-2.35 or 59-G-2.35.1[,]; or 2) a condition of site plan approval.</u> [enforcement agreement in accordance with Section 59-D-3.3 or other long-term agreement.] Continued shuttle bus service after that period is subject to the parking needs of the specific project, as determined by the Board of Appeals, Planning Board or Director:	10%
(3)	Provision of units that are required to be at or below the	

	price levels for moderately priced dwelling units specified in accordance with Chapter 25A of this Code:	Up to 20% ¹
(4)	Facilities or programs for assisted living, including a dining facility large enough to serve meals to at least 50 percent of the residents, that are assured by a special exception granted in accordance with Section 59-G-2.35 or 59-G-2.35.1 or by a similar long-term agreement:	20%

1 The percentage reduction must be no greater than the percentage of price-controlled dwelling units in the facility.

* * *

Sec. 4. DIVISION 59-F-10 is amended as follows:

DIVISION 59-F-10. AUTHORITY.

* * *

59-F-10.2. Sign Review Board.

* * *

(b) Powers and Duties.

(1) **Duties.** The Sign Review Board must:

* * *

(G) Notification

1. Verify that an applicant for a sign variance has:

a. Submitted to the Director with the application for a variance a list of all those to be notified of the hearing. The list must include:

* * *

iv. The technical staff of [t] The Maryland-National Capital Park and Planning

Commission, if the sign is to be located on
the property [under a Section 59-D-3 site
plan agreement]; and

* * *

Sec. 5. Effective date. This ordinance becomes effective 20 days after the
date of Council adoption.

This is a correct copy of Council action.

Mary A. Edgar, CMC
Clerk of the Council